

2001 DRAFTING REQUEST**Senate Amendment (SA-SB55)**Received: **06/07/2001**Received By: **jkreye**Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**By/Representing: **Larson**This file may be shown to any legislator: **NO**Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax - sales**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

LFB:.....Larson -

Topic:

Motion 1643, Paper 111, alt. 1: services to tangible personal property

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	jkreye 06/08/2001	gilfokm 06/08/2001	rschluet 06/08/2001	_____	lrb_docadmin 06/08/2001		
	jkreye 06/09/2001	gilfokm 06/09/2001		_____			
/2			rschluet 06/09/2001	_____	lrb_docadmin 06/10/2001		

06/10/2001 09:52:51 AM

Page 2

FE Sent For: .

<END>

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FE Sent For:

12-6/Kmg
12-01cws
lfa
lz

<END>

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/1	jkreye	1-6/king 1-8-01					

6-8-1

FE Sent For:

<END>

Budget draft

DIVISION ANALYSIS OF LEGISLATION

Division: Income, Sales and Excise Tax

email completed copies to:
Sherrie Gates-Hendrix (Sec Office)
Mary Jo Weber (Sec Office)
Debbie Schneider (R&A)

For Division Use:

Assigned to: Mike Hinnendael	Date: February 19, 2001	Due Date: February 26, 2001
Prepared by: Mike Hinnendael	Date: February 26, 2001 Revised April 6, 2001	(analysis should generally be prepared within 1 week of assignment)
Reviewed by: Bob Stellick and Clay Seth	Date: April 6, 2001	

1. **Bill and/or LRB Number:** LRB-0540/1; The repair of tangible personal property for sales and use tax purposes
- 2.
3. **Type of Taxes Affected:** Sales and use tax
4. **Description of the Bill:** Under this bill, repair and service to items of tangible personal property are taxable, regardless of whether installing or applying the tangible personal property is an addition or improvement to real property. Under the bill, items that remain tangible personal property, regardless of the extent to which those items are attached to real property, include equipment in offices, business facilities, schools and hospitals.
5. **Statutory language problems, if any:** ☒ Yes ☐ No
 1. It is not clear whether installations of tangible personal property are taxable under the bill. If all installations are taxable, it creates the unintended side effect of imposing tax on installations of tangible personal property that become a part of real property when installed. For example, an individual buys a furnace and hires a contractor to install the furnace. The service of installing the furnace may be taxable under the bill.
 2. If all installations of tangible personal property are taxable under the bill, there may be a conflict with sec. 77.51(4)(c)4, Wis. Stats. (1999-00), for transactions including both the sale and the installation of tangible personal property.

Suggested changes to LRB-0540/1:

1. To make it even clearer, I would suggest that the first sentence of the third paragraph of the Analysis be changed to read something like: "Under this bill, the service of installing or applying tangible personal property to those items listed in s. 77.52(2)(a)10. which are deemed to retain their character as tangible personal property is subject to the sales or the use tax, regardless... However, the tax imposed by this subsection does not apply to the original installation or complete replacement of those items listed in sec. 77.52(2)(a)10. which constitute a real property construction activity as defined in s. 77.51(2)."

2. Restore text on page 2, lines 2 through 4.

3. Add to the end of sec. 77.52(2)(a)10, on page 3, line 15, after "veterinarians.":

"The tax imposed by this subsection applies to the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection or maintenance of items listed in this paragraph, regardless of whether the installation or application of tangible personal property constitutes an addition or capital improvement of real property; but not to the original installation or complete replacement of an item listed in this paragraph if such installation or replacement constitutes a real property construction activity as defined in s. 77.51(2)."

5. **Effective date problems, if any, including transitional problems:** ☐ Yes ☒ No
(If yes, describe problem and suggested effective date or transitional language needed.)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0691/1

JK:.....

King

LFB:.....Larson – Motion 1643, Paper 111, alt. 1: services to tangible personal property

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

m 6-8-01

SOON

At the locations indicated, amend the bill as follows:

✓ 1. Page 999, line 13: after “veterinarians.” insert “The tax imposed under this subsection applies to the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, or maintenance of items listed in this subdivision, regardless of whether the installation or application of tangible personal property related to the items is an addition to or a capital improvement of real property, except that the tax imposed under this subsection does not apply to the original installation or the complete replacement of an item listed in this subdivision, if such installation or replacement is a real property construction activity under s. 77.51 (2).”.

(END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb0691/1
JK:kmg:rs

LFB:.....Larson – Motion 1643, Paper 111, alt. 1: services to tangible personal property

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

in 6-9-01

SDON

D-N

INSERT A

1 At the locations indicated, amend the bill as follows:

2 1. Page 999, line 13: after “veterinarians.” insert “The tax imposed under this
3 subsection applies to the repair, service, alteration, fitting, cleaning, painting,
4 coating, towing, inspection, or maintenance of items listed in this subdivision,
5 regardless of whether the installation or application of tangible personal property
6 related to the items is an addition to or a capital improvement of real property, except
7 that the tax imposed under this subsection does not apply to the original installation
8 or the complete replacement of an item listed in this subdivision, if such installation
9 or replacement is a real property construction activity under s. 77.51 (2).”

10

(END)

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0691/lins
JK:kmg:rs

INSERT A

- ✓ 1. Page 998, line 4: delete the material beginning with "Except" and ending with ~~The~~ on line 6 and substitute^e "Except for installing or applying tangible personal property which, when installed or applied, will constitute an addition or capital improvement of real property, the".

~~The~~ Δ

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0691/1dn

JK:kmg:rs

June 9, 2001

Drew Larson:

As instructed, I restored the stricken text in s. 77.52 (2) (a) 10. However, I still think the language contradicts, somewhat, the language I added to the end of s. 77.52 (2) (a) 10. ✓

that

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0691/2dn
JK:kmg:cmh

June 9, 2001

Drew Larson:

As instructed, I restored the stricken text in s. 77.52 (2) (a) 10. However, I still think the language contradicts, somewhat, the language that I added to the end of s. 77.52 (2) (a) 10.

Joseph T. Kreye
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Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

LFB:.....Larson – Motion 1643, Paper 111, alt. 1: services to tangible personal property

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 998, line 4: delete the material beginning with “Exeept” and ending
3 with “~~the~~ The” on line 6 and substitute “Except for installing or applying tangible
4 personal property which, when installed or applied, will constitute an addition or
5 capital improvement of real property, the”.

6 **2.** Page 999, line 13: after “veterinarians.” insert “The tax imposed under this
7 subsection applies to the repair, service, alteration, fitting, cleaning, painting,
8 coating, towing, inspection, or maintenance of items listed in this subdivision,
9 regardless of whether the installation or application of tangible personal property
10 related to the items is an addition to or a capital improvement of real property, except
11 that the tax imposed under this subsection does not apply to the original installation

1 or the complete replacement of an item listed in this subdivision, if such installation
2 or replacement is a real property construction activity under s. 77.51 (2).”.

3 (END)